Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KRISHNAMURTHY SRINIVASAN,
GEORGE P. MOAKLEY,
and CHRISTOPHER S. THOMAS

Appeal No. 2002-0399
Application 09/100,227[1]

ON BRIEF

Before THOMAS, BARRETT, and DIXON, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1-25.

We reverse.

[1] Application for patent filed June 19, 1998, entitled "Method and Apparatus for Automated Data Exchange Between a User Computer and a Provider Computer Using Improved Object-Oriented Programming Components."

BACKGROUND

The invention relates to a method and apparatus for exchanging data between a user computer and a provider computer by including a documentation module 18 in a package 10 containing a component 12 to be exchanged (Fig. 1). The documentation module contains textual information for communicating to the user particular properties of component 12, such as technical and business properties that a user would need to know to exploit the component (specification, p. 6, line 14 to p. 7, line 6).

Claim 1 is reproduced below.

> 1. An apparatus for exchanging data between a user computer and a provider computer, said apparatus comprising a package file containing an object-oriented programming component including executable instructions for transferring data between the user computer and the provider computer, a first interface enabling an application resident on the user computer and the object-oriented programming component to interact, a second interface enabling an application resident on the provider computer and the object-oriented programming component to interact, and a documentation module containing rules for using the object-oriented programming component to exchange data between the user computer and the provider computer.

The examiner relies on the following references:

Haller et al. (Haller)	6,026,379	February 15, 2000 (filed June 17, 1996)
Whitehead et al. (Whitehead)	6,085,030	July 4, 2000 (filed May 2, 1997)

Claims 1-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Haller and Whitehead.

We refer to the final rejection (Paper No. 11) and the examiner's answer (Paper No. 17) (pages referred to as "EA__") for a statement of the examiner's rejection, and to the brief (Paper No. 16) (pages referred to as "Br__") for a statement of appellants' arguments thereagainst.

OPINION

Appellants argue all of the pending claims 1-25 to stand or fall together for purposes of appeal (Br5). We take claim 1 as the representative claim.

The examiner finds that Haller does not disclose a "documentation module containing rules for using the object-oriented programming component to exchange data between the user computer and the provider computer," as recited in each of the independent claims (FR3; EA4). The examiner notes that "[a]lthough Java applets transfer data according to rules for data exchange as defined by the API, the rules are not incorporated into a documentation module packaged into the Java applet [in Haller]" (EA4-5). The examiner finds that "Whitehead discloses a network component utilizing object oriented programming components having a documentation module containing rules and attributes for data exchange and system performance

(Whitehead, abstract and col. 4, line 36 - col. 5, line 44)"

(FR3). The examiner concludes (FR3; EA5):

> It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a documentation module as taught by Whitehead into the data exchange system of Haller in order to provide the client rules for exchanging data over the internet thereby enhancing cutomizability of the system to the particular transaction and to make the system more adaptable to different protocols.

Appellants argue that neither Haller nor Whitehead teaches or suggests packaging an object-oriented programming component with a documentation module (Br6).

The examiner responds (EA8-9):

> Whitehead teaches a component management system (CMS) which enables communication between the server and the client (Whitehead, abstract and col. 4, line 36 - col. 5, line 44). A global component registry offers a heterogeneous component to the client by providing an appropriate interface for data exchange. The interface provides the rules for data exchange between the client and server. The component registry CMS comprises various repositories. The various repositories of the component registry conforms to the Common Object Request Broker Architecture (CORBA) to incorporate rules and instructions to the object package.
>
> CORBA enables interoperability in heterogeneous environments. CORBA Object implementations include executable code as well as definitions that provides the information needed to create the object and to allow the object to participate in providing an appropriate set of services. An implementation typically includes, among other things, definitions of the methods that operate upon the state of an object.

The examiner further states (EA9):

> Whitehead explicitly discloses the use of CORBA and its interfaces. The techniques incorporated in CORBA to exchange data objects were notoriously well known in the

> art. The incorporation of executable code and necessary instructions as taught by the CORBA specifications are integral to the operation of the system as taught by Whitehead.

The examiner appears to find the documentation module in two places: (1) the component registry in Whitehead; and (2) inherently in CORBA objects present in Whitehead.

As to (1), the examiner does not explain how column 4, line 36 to column 5, line 44 of Whitehead teaches a documentation module in a package file to be exchanged between a user computer and a provider computer. Our reading of this portion of Whitehead is that the component registry responds to a consumer application request for a component by locating the component. There is no suggestion in Whitehead that the component has any information that could be described as "a documentation module containing rules for using the object-oriented programming component to exchange data between the user computer and the provider computer." The component management server (CMS) can detect requests for different types of components, such as COM, Java RMI, and CORBA objects, and redirect them to the component registry (col. 8, line 64 to col. 9, line 6) and, thus, knows how to interface with different objects (e.g., col. 9, lines 7-31). However, we do not find a documentation module disclosed or suggested in the portion of Whitehead relied on by the examiner. The rejection of claims 1-25 based on this logic is reversed.

As to (2), the examiner appears to find (or impliedly take Official Notice) that CORBA objects inherently contain information needed to create the object and to communicate. "Assertions of technical facts in areas of esoteric technology must always be supported by citation to some reference work recognized as standard in the pertinent art . . . ." In re Ahlert, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970); accord In re Pardo, 684 F.2d 912, 917, 214 USPQ 673, 677 (CCPA 1982). We do not know it to be a fact that CORBA objects contain "a documentation module containing rules for using the object-oriented programming component to exchange data between the user computer and the provider computer." There is no way that we or our reviewing court, the U.S. Court of Appeals for the Federal Circuit, can review the correctness of the examiner's factual finding on the record before us.[2] Accordingly, the examiner has not provided substantial evidence to support the obviousness rejection and the rejection of claims 1-25 based on this reasoning is reversed.

[2] Four months after the date of the examiner's answer, the examiner entered a miscellaneous communication (Paper No. 18, October 1, 2001, misnumbered as Paper No. 17) citing four CORBA references. These references are clearly not part of the rejection and are not considered for purposes of deciding the rejection on appeal. If the intent of citing these references was to show, albeit belatedly, that CORBA objects contain a documentation module, the examiner has made no attempt to point out such teachings in the individual references.

CONCLUSION

The rejection of claims 1-25 is reversed.

REVERSED

JAMES D. THOMAS Administrative Patent Judge	)
LEE E. BARRETT Administrative Patent Judge	) BOARD OF PATENT APPEALS AND INTERFERENCES
JOSEPH L. DIXON Administrative Patent Judge	)

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